

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

GREE, INC., ) ( CIVIL ACTION NOS.  
 ) ( 2:19-CV-70-JRG-RSP  
 PLAINTIFFS, ) ( 2:19-CV-71-JRG-RSP  
 ) (   
 VS. ) (   
 ) ( MARSHALL, TEXAS  
 SUPERCELL OY, ) ( SEPTEMBER 18, 2020  
 ) ( 9:51 A.M.  
 DEFENDANTS. ) (

TRANSCRIPT OF JURY TRIAL

VOLUME 12

BEFORE THE HONORABLE JUDGE RODNEY GILSTRAP

UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

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Official Court Reporter  
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Eastern District of Texas  
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16  
17 (Proceedings recorded by mechanical stenography, transcript  
18 produced on a CAT system.)  
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P R O C E E D I N G S

(Jury out.)

COURT SECURITY OFFICER: All rise.

THE COURT: Be seated, please.

All right. Counsel, I've received the following  
note from the jury: We have reached a verdict.

Signed by Rachel Leathers, who, as I recall, is  
Juror No. 7, and who, I assume, is the foreperson of the  
jury. It's dated with today's date.

And I'll hand the original note to the courtroom  
deputy to be included in the papers of this case.

I'm about to bring in the jury and receive the  
verdict from them.

Is there anything from either Plaintiff or  
Defendant that needs to be raised with the Court before I  
proceed to bring in the jury?

MS. SMITH: No, Your Honor.

MR. DACUS: No, Your Honor.

THE COURT: All right. Let's bring in the jury,  
please, Mr. Fitzpatrick.

COURT SECURITY OFFICER: All rise.

(Jury in.)

THE COURT: Please be seated.

Welcome back, ladies and gentlemen of the jury.

I understand that the jury has reached a verdict,

09:54:40 1 and I understand, Ms. Leathers, that you are the foreperson  
09:54:43 2 of the jury; is that correct?

09:54:44 3 THE FOREPERSON: Yes, sir.

09:54:45 4 THE COURT: Would you please hand the signed and  
09:54:47 5 dated verdict form to the Court Security Officer, who will  
09:54:49 6 bring it to me?

09:54:51 7 Ladies and gentlemen of the jury, I'm going to  
09:55:43 8 announce the verdict at this time, and I'd like each member  
09:55:46 9 of the jury to listen very carefully as I announce the  
09:55:49 10 verdict into the record. Because after I've done that, I'm  
09:55:52 11 going to ask each of you if this is your verdict so that we  
09:55:55 12 can confirm on the record that it is, in fact, the  
09:55:58 13 unanimous verdict of all eight members of the jury.

09:56:01 14 Turning to the verdict form. The first question  
09:56:10 15 in the verdict form is located on Page 4 thereof.

09:56:14 16 Question 1 is: Did GREE prove by a preponderance  
09:56:17 17 of the evidence that Supercell infringed any of the  
09:56:20 18 asserted claims?

09:56:20 19 The answer from the jury to Question 1 is: Yes.

09:56:25 20 Turning to Question 5 -- excuse me, Page 5 where  
09:56:31 21 Question 2 of the verdict is located.

09:56:35 22 Did Supercell prove by clear and convincing  
09:56:37 23 evidence that any of the following asserted claims are  
09:56:40 24 invalid?

09:56:41 25 Each of the listed claims thereunder for the

09:56:48 1 asserted claims of the patents-in-suit the jury has  
09:56:51 2 supplied the same answer across the board, and that answer  
09:56:55 3 is: No.

09:56:55 4 Turning to Page 6 of the verdict form wherein  
09:57:03 5 Question 3 is located.

09:57:05 6 Did GREE prove by a preponderance of the evidence  
09:57:07 7 that Supercell willfully infringed any of the asserted  
09:57:11 8 claims that you found were infringed?

09:57:13 9 The jury's answer is: Yes.

09:57:17 10 Turning to Page 7 of the verdict form wherein  
09:57:25 11 Question 4A is located.

09:57:26 12 What sum of money, if any, paid now in cash has  
09:57:30 13 GREE proven by a preponderance of the evidence would  
09:57:32 14 compensate GREE for its damages resulting from  
09:57:36 15 infringement?

09:57:37 16 The jury's answer is: \$8,500,000.00.

09:57:46 17 Turning to Question 4B located on Page 8 of the  
09:57:52 18 verdict form.

09:57:55 19 Is the total amount that you awarded in  
09:57:57 20 Question 4A a lump sum representing damages for past and  
09:58:00 21 future sales, or is the amount you awarded in Question 4A a  
09:58:06 22 reasonable royalty for past sales only?

09:58:09 23 The jury's answer is: Lump sum.

09:58:13 24 Turning to Page 9, which is the final page of the  
09:58:18 25 verdict form.

09:58:20 1 I find that the verdict is dated with today's  
09:58:22 2 date, September the 18th, 2020. And it is signed by  
09:58:27 3 Ms. Rachel Leathers as foreperson of the jury.

09:58:29 4 Ladies and gentlemen of the jury, let me poll you  
09:58:35 5 at this time to make sure that this verdict reflects the  
09:58:38 6 unanimous decision of all eight members of the jury.

09:58:41 7 If this is your verdict as I have read it, would  
09:58:45 8 you please stand?

09:58:47 9 (Jury polled.)

09:58:55 10 THE COURT: Thank you. Please be seated.

09:58:56 11 Let the record reflect that all eight members of  
09:59:01 12 the jury immediately rose and stood in response to the  
09:59:03 13 Court's question to poll the jury.

09:59:05 14 Accordingly, the Court finds that this is the  
09:59:07 15 unanimous verdict of all eight members of the jury. The  
09:59:10 16 Court accepts the verdict, and I will deliver the original  
09:59:14 17 signed verdict to the court -- to the courtroom deputy.

09:59:17 18 Ladies and gentlemen, this now completes the trial  
09:59:23 19 of this case. From the very beginning, I have instructed  
09:59:27 20 you time after time not to discuss this case with anyone,  
09:59:32 21 not to communicate about it in any way, and not to discuss  
09:59:36 22 it among yourselves until you retired to deliberate on this  
09:59:39 23 verdict.

09:59:39 24 I'm releasing you from that instruction and that  
09:59:43 25 requirement. I'm releasing you from all the requirements

09:59:46 1 related to your service as jurors, and I'm discharging you  
09:59:50 2 as the jury in this case.

09:59:52 3 I want you to understand, ladies and gentlemen,  
09:59:56 4 that in this -- in this court, there has been a practice  
10:00:01 5 for decades -- it was in place when I got here in 1981 as a  
10:00:07 6 brand new lawyer -- that when a jury is discharged from a  
10:00:11 7 trial in this court, that the lawyers and the witnesses and  
10:00:16 8 the parties are not permitted to initiate a conversation or  
10:00:20 9 make contact with the members of the jury to discuss or  
10:00:24 10 inquire about the process of the trial or their service as  
10:00:28 11 jurors.

10:00:29 12 That means they're not going to talk to you.  
10:00:31 13 They're not going to call you. They're not going to stop  
10:00:34 14 you and start a conversation.

10:00:37 15 However, now that you have been discharged and  
10:00:39 16 this trial is over and I have accepted the verdict, you are  
10:00:42 17 completely free to talk to anybody about this trial and  
10:00:47 18 your experience and your thinking, if you'd like to.  
10:00:53 19 You're free not to. It is 100 percent your decision.

10:00:55 20 Now, when I got here years ago and this practice  
10:00:59 21 was in place, what always happened was that when the jury's  
10:01:04 22 verdict was received and they were discharged, the lawyers  
10:01:07 23 immediately beat a path outside the courthouse and stood at  
10:01:12 24 the end of the front steps so the jury would have to walk  
10:01:15 25 right by them to leave the building and get to their cars,



10:01:20 1 hoping that the jury -- some members of the jury would stop  
10:01:23 2 and talk to them on the sidewalk about their service as  
10:01:28 3 jurors. That was one of my jobs to get there first and get  
10:01:31 4 in a good position so that people would have to walk right  
10:01:35 5 by me.

10:01:36 6 I've added a little bit of a twist to that. I've  
10:01:39 7 asked the parties before the trial started to give me cell  
10:01:43 8 phone numbers for representatives of both the Plaintiff and  
10:01:45 9 the Defendant, and I have those cell phone numbers written  
10:01:48 10 on pieces of paper, and I'm going to pass them out to you  
10:01:51 11 in a minute.

10:01:52 12 That means they don't have to stand out in the  
10:01:55 13 front of the courthouse and hope that you'll stop today and  
10:01:57 14 visit with them. They may still do that, but, again, it's  
10:02:01 15 your decision whether you want to enter into a conversation  
10:02:04 16 with anybody about the trial or not.

10:02:07 17 But take those phone numbers home with you. And  
10:02:11 18 if tomorrow, next week, a month from now you decide that  
10:02:14 19 you would like to talk to somebody about your experience on  
10:02:18 20 either the Plaintiff's side or the Defendant's side, you're  
10:02:21 21 free to dial those cell phone numbers and talk to them, and  
10:02:23 22 I guarantee you, they'll take the call. But if you don't  
10:02:26 23 want to, you don't have to.

10:02:28 24 But by giving you these cell phone numbers, it  
10:02:31 25 takes a little bit of the immediate pressure off of

10:02:34 1 everybody feeling like I either have to stop and talk right  
10:02:38 2 now, or I'll never get to talk to these people again. This  
10:02:42 3 way it makes it so that you can make that call in your own  
10:02:45 4 time, at your own convenience. If you do it, great. If  
10:02:49 5 you don't do it, great. Again, it is 100 percent up to  
10:02:52 6 you.

10:02:53 7           None of these folks on either the Plaintiff's side  
10:02:56 8 or the Defendant's side, as much as they may want to know  
10:02:59 9 what you think and how they can do a better job in the  
10:03:02 10 future, as much as they may want to hear from you, they are  
10:03:05 11 not going to contact you, and they are not going to stop  
10:03:08 12 you or initiate a conversation with you. It's up to you,  
10:03:11 13 100 percent.

10:03:12 14           Also, ladies and gentlemen, I have to tell you how  
10:03:17 15 much the Court appreciates your service in this case.  
10:03:21 16 Every one of you have been extremely attentive throughout  
10:03:24 17 the entire trial. I suspect that these juror notebooks  
10:03:29 18 that you've left in the jury room are filled with notes.

10:03:32 19           And, by the way, I want to tell you, those  
10:03:35 20 notebooks will be picked up by the Court as soon as you  
10:03:38 21 leave, and every page will be shredded in there. None of  
10:03:42 22 that material will be retained or copied.

10:03:44 23           But I'm confident you've filled them up with  
10:03:48 24 notes, and I've seen you taking notes throughout the trial,  
10:03:51 25 and I've walked you make eye contact with the witnesses and

10:03:53 1 the lawyers and attentively follow the evidence.

10:03:56 2 And I can't tell you how important that is. I  
10:03:58 3 can't tell you how much the Court as an institution  
10:04:01 4 appreciates the service that I've seen you render over the  
10:04:04 5 last week in this trial, because, quite honestly, you've  
10:04:08 6 done what juries are supposed to do, and you've done it  
10:04:11 7 well. And it's not easy, and it requires a very real  
10:04:15 8 personal sacrifice on your part. And the Court appreciates  
10:04:19 9 that.

10:04:20 10 And I -- I know that I speak for not only the  
10:04:24 11 Court and myself personally, but each member of our staff,  
10:04:27 12 all the Plaintiff's people, all the Defendant's people,  
10:04:30 13 everybody associated with this trial on either side  
10:04:33 14 appreciates the sacrifice that you've made and the very  
10:04:38 15 real public service that you've rendered to your country.

10:04:41 16 Ordinarily, ladies and gentlemen, when we're not  
10:04:45 17 in the middle of a global pandemic, I would ask you to meet  
10:04:49 18 me in the jury room at this point, and I would come in  
10:04:52 19 there, and I would shake each hand and look each one in the  
10:04:55 20 eye and personally tell you how much we thank you for the  
10:04:58 21 service you've rendered. But given the current public  
10:05:05 22 health environment, I'm not going to do that.

10:05:07 23 I do have a letter of thanks that I've prepared  
10:05:09 24 and signed for each of you. I do have a certificate from  
10:05:14 25 the Court verifying your service as a juror in this case.

10:05:16 1 And I'd like to -- I would otherwise bring these in and  
10:05:21 2 hand them to you when I thanked you in person in the jury  
10:05:23 3 room, but in light of current circumstances, I'm not going  
10:05:27 4 to do that.

10:05:28 5 I'm going to pass them out to you from here at  
10:05:31 6 this point, if you will allow me, and I'm going to  
10:05:34 7 paperclip these phone numbers for the lawyers on each side  
10:05:36 8 of the case to this envelope so you'll have that if you  
10:05:39 9 want to use it in the future.

10:05:40 10 The first one I have is for Ms. Smith, Juror  
10:05:44 11 No. 1.

10:05:44 12 Ms. Smith, thank you so much for your service.

10:05:47 13 Next is Ms. Adams, Juror No. 2.

10:05:56 14 Thank you, Ms. Adams.

10:05:57 15 Next is Ms. Derrick, Juror No. 3.

10:06:09 16 Thank you, Ms. Derrick.

10:06:13 17 Next is Ms. McCoy, Juror No. 4.

10:06:21 18 Thank you, Ms. McCoy.

10:06:23 19 Next is Ms. Brown, Juror No. 5.

10:06:35 20 Thank you, Ms. Brown.

10:06:41 21 Next is our lone gentleman on the jury, Mr. Cato,  
10:06:55 22 Juror No. 6.

10:06:56 23 Thank you, Mr. Cato.

10:06:58 24 Next is Ms. Leathers, Juror No. 7 and our  
10:07:10 25 foreperson.

10:07:10 1 Thank you, Ms. Leathers.

10:07:12 2 Next is Juror No. 8, Ms. Ball. Last, but not  
10:07:24 3 least.

10:07:24 4 Thank you, Ms. Ball.

10:07:25 5 MS. BALL: Thank you.

10:07:26 6 THE COURT: Again, ladies and gentlemen, thank you  
10:07:28 7 so very much for your very real and important public  
10:07:32 8 service. The Court could not function as the Constitution  
10:07:35 9 requires without folks like you doing exactly what you've  
10:07:39 10 done in this case. Thank you so very much.

10:07:42 11 I will tell you two other things, and then I'll  
10:07:44 12 let you go.

10:07:45 13 Number one, if you have any questions about your  
10:07:48 14 service, if you need any documentation for an employer, if  
10:07:52 15 you have any questions, please see Ms. Clendening in the  
10:07:55 16 clerk's office, and they will be more than happy to help  
10:07:58 17 you with anything related to your service.

10:08:00 18 Number two, as you leave, if you'll go through the  
10:08:03 19 jury room, unless you want to take it home with you, leave  
10:08:07 20 that wonderful face shield there and anything else you have  
10:08:11 21 with you, and we will dispose of everything.

10:08:13 22 Also, so you'll know, now that you've served on  
10:08:17 23 this jury, your name comes out of the jury wheel, the  
10:08:20 24 hopper, for two years. You're not going to get called for  
10:08:25 25 jury duty in federal court for the next 24 months. After

10:08:30 1 24 months goes by, your name goes back in the hopper.

10:08:33 2 In that 24 months, the state court system might  
10:08:37 3 summons you for jury duty; they may not. I have no way of  
10:08:42 4 knowing. I have no control over that. That's a completely  
10:08:45 5 separate and parallel system. So you might get called for  
10:08:48 6 jury duty in a state court somewhere. But you are not  
10:08:51 7 going to get called for jury duty in federal court in this  
10:08:56 8 district for two years.

10:08:56 9 Thank you, again, ladies and gentlemen.

10:09:00 10 The jury in this case is discharged.

10:09:02 11 COURT SECURITY OFFICER: All rise.

10:09:10 12 (Jury out.)

10:09:20 13 THE COURT: Counsel, that completes the trial of  
10:09:22 14 this case. Counsel, you are excused.

10:09:25 15 The Court stands in recess.

10:09:29 16 (Court is adjourned.)

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CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct transcript from the stenographic notes of the proceedings in the above-entitled matter to the best of my ability.

/S/ Shelly Holmes  
SHELLY HOLMES, CSR, TCRR  
OFFICIAL REPORTER  
State of Texas No.: 7804  
Expiration Date: 12/31/2020

9/18/2020  
Date